

are vital to the public's understanding of national security issues. Without transparent and informed public debate on foreign policy and national security topics, American voters would be ill-equipped to elect the policymakers who make important decisions in these areas.

Congress, too, would be much less effective in its oversight if Members did not have access to informed press accounts on foreign policy and national security topics. And while many Members of Congress don't like to admit it, members often rely on the press to inform them about problems that congressional overseers have not discovered on their own. I have been on the Senate Intelligence Committee for 12 years now, and I can recall numerous specific instances where I found out about serious government wrongdoing—such as the NSA's warrantless wiretapping program, or the CIA's coercive interrogation program—only as a result of disclosures by the press.

With all of that in mind, I am particularly concerned about sections 505 and 506 of this bill, both of which would limit the flow of unclassified information to the press and to the public. Section 505 would prohibit any government employee with a Top Secret, compartmented security clearance from, and I quote, "entering into any contract or other binding agreement" with, quote, "the media" to provide "analysis or commentary" concerning intelligence activities for a full year after that employee leaves the government. This provision would clearly lead to less-informed public debate on national security issues. News organizations often rely on former government officials to help explain complex stories or events, and I think it is entirely appropriate for former officials to help educate the public in this way. I am also concerned that prohibiting individuals from providing commentary could be an unconstitutional encroachment on free speech. For example, if a retired CIA Director wishes to publish an op-ed commenting on a public policy debate, I see no reason to try to ban him from doing so, even if he has been retired less than a year.

I understand my colleagues' desire to prohibit unauthorized disclosures by retired officials, but these officials are already legally bound not to disclose classified information that they learned while in government service. And I would also note that this bill does not define who is and who isn't a member of the media, and that this ambiguity could present a variety of problems. When this bill was being considered in committee, I suggested that we get feedback from outside groups before we voted on it, so that we could address problems like this, and I hope that the committee will take that step in the future.

Section 506 would also lead to a less-informed debate on national security issues, by prohibiting nearly all intelligence agency employees from pro-

viding briefings to the press, unless those employees give their names and provide the briefing on the record. The bill makes an exception for agency directors and deputy directors, and their public affairs offices, but no one else. It seems to me that authorized, unclassified background briefings from intelligence agency analysts and experts are a useful way to help inform the press and the public about a wide variety of issues, and there will often be good reasons to withhold the full names of the experts giving these briefings. I haven't seen any evidence that prohibiting the intelligence agencies from providing these briefings would benefit national security in any way, so I see no reason to limit the flow of information in this manner.

The third provision that I am most concerned about is section 511, which would require the Director of National Intelligence to establish an administrative process under which he and the heads of the various intelligence agencies would have the authority to take away pension benefits from an intelligence agency employee, or a former employee, if the DNI or the agency head determines that the employee has knowingly violated his or her non-disclosure agreement and disclosed classified information.

I am concerned that the Director of National Intelligence himself has said that this provision would not be a significant deterrent to leaks, and that it would neither help protect sensitive national security information nor make it easier to identify and punish actual leakers. Beyond these concerns about the provision's effectiveness, I am also concerned that giving intelligence agency heads broad new authority to take away the pensions of individuals who haven't been formally convicted of any wrongdoing could pose serious problems for the due process rights of intelligence professionals, particularly when the agency heads themselves haven't told Congress how they would interpret and implement this authority. As many of my colleagues will guess, I'm especially concerned about the rights of whistleblowers who report waste, fraud and abuse to Congress or Inspectors General.

I outlined these due process concerns in more detail in the committee report that accompanied this bill, so I won't restate them all here. I will note, though, that I am particularly confused by the fact that section 511 creates a special avenue of punishment that only applies to accused leakers who have worked for an intelligence agency at some point in their careers. There are literally thousands of employees at the Departments of Defense, State and Justice, as well as the White House, who have access to sensitive national security information. I don't see a clear justification for singling out intelligence community employees with this provision, when there is no apparent evidence that these employees are

responsible for a disproportionate number of leaks. And I am concerned that it will be harder to attract qualified individuals to work for intelligence agencies if Congress creates the perception that intelligence officers have fewer due process rights than other government employees.

While I have a number of smaller concerns regarding the language of these anti-leaks provisions, the issues that I have just laid out represent my central concerns, and I hope that my colleagues now have a better sense of why I oppose this bill. I would add that my view seems to be widely shared outside of Congress, and that when USA Today ran an editorial criticizing these anti-leaks provisions, they couldn't find a single senator who was willing to publicly defend them.

I know that the sponsors of this bill have worked hard on it, and I am still happy to sit down with them at any time to discuss my concerns in more detail, and help them make the major changes that I believe must be made before this authorization bill moves forward.

#### SPORTSMEN'S ACT OF 2012

Mr. BLUMENTHAL. Mr. President, I would like to make a brief statement regarding my vote to support the motion to proceed to S. 3525, the Sportsmen's Act of 2012. There are many worthy provisions in this bill that deserve our support. However, I remain concerned about the provision that would allow the importation of polar bear trophies taken in sport hunts in Canada before February 18, 1997. This provision would apply to trophies regardless of whether they were taken from an approved polar bear population. Prior to 1997, U.S. trophy hunters were only permitted to take bears and import trophies from approved populations; thus, only trophy hunters who killed polar bears from unapproved populations would benefit from this provision of the bill.

I find this very disturbing. This provision of the Sportsmen's Act undermines current wildlife protections, and further imperils an already threatened species by encouraging future killings for sport. For this reason, I am proud to cosponsor the amendment introduced by my two colleagues from Massachusetts to strike this provision. It would be my hope that the Senate would pass this important amendment.

#### HONORING CAPTAIN SHAWN G. HOGAN

Mrs. SHAHEEN. Mr. President, I wish to honor the service of a brave New Hampshire son, U.S. Army Special Forces CPT Shawn G. Hogan, who was killed in a tragic accident during a military training exercise on October 17 in Golden Pond, KY. Captain Hogan was commander of Company A, 4th Battalion, 5th Special Forces Group headquartered at Fort Campbell, KY.